

FCC MAIL SECTION

Before the
Federal Communications Commission DA 96-1465
 SEP 3 11 35 AM '96
 Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-183
)	
Missouri Valley Productions, Inc.)	
)	
Order to Show Cause Why the)	
License for Station KLEH(AM))	
Anamosa, Iowa Should)	
Not be Revoked)	

ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER

Adopted: August 26, 1996 Released: August 30, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Missouri Valley Productions, Inc. ("MVPI") for Anamosa, Iowa; and (b) the results of an investigation into the station's silent status.¹

2. MVPI has been the licensee for KLEH(AM) since 1985.² On February 21, 1995, MVPI suspended KLEH's operations when the station's property owner required that the licensee move its studio and tower location. MVPI requested special temporary authority to remain silent on March 16, 1995, stating that it was "seeking a buyer for the station who will relocate the studio and towers." On March 30, 1995, the staff granted MVPI's request, authorizing the station to remain silent and, on two subsequent occasions, extended the period of its silent authorization to June 5, 1996.

3. We now have under consideration MVPI's third request, filed June 6, 1996, to extend the temporary authorization permitting KLEH(AM)'s silence. No progress towards resumption of operations is cited, and Evergreen repeats its claim that it continues "to seek a buyer for the station who will relocate the studio and towers." No evidence is presented detailing MVPI's sixteen month search for a buyer for the station, and a review of the public record reveals no applications filed since the station suspended operations to assign, transfer,

¹The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

²The license for KLEH(AM) expires February 1, 1997 (BR-891002VU, granted September 23, 1991).

or modify the station's facilities. Thus, KLEH(AM) has been off-air for seventeen months, is not presently authorized to remain silent, and has not demonstrated that broadcast operations can be resumed expeditiously. Consequently, MVPI is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of the Commission's Rules.

4. Accordingly, IT IS ORDERED, That pursuant to Sections 312(a) (3) and (4) of the Communications Act of 1934, as amended, Missouri Valley Productions, Inc. IS DIRECTED TO SHOW CAUSE why the license for KLEH(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

- (1) To determine whether Missouri Valley Productions, Inc. has the capability and intent to expeditiously resume the broadcast operations of KLEH(AM), consistent with the Commission's Rules.
- (2) To determine whether Missouri Valley Productions, Inc. has violated

³Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

Sections 73.1740 and/or 73.1750 of the Commission's Rules.

- (3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Missouri Valley Productions, Inc. is qualified to be and remain the licensee of KLEH(AM).

5. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

6. IT IS FURTHER ORDERED, That to inform Missouri Valley Productions, Inc. of the issues specified against it, a copy of this Order will be mailed by certified mail/return receipt requested to:

Missouri Valley Productions, Inc.
P.O. Box 488
Anamosa, Iowa 52205

7. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that it will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau

⁵The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596 n.3 (1989).